

Warren Havens

January 16, 2014

I am submitting the attached emails in this docket No. 11-71.

/s/

Warren Havens

Subject: Re: Pre-hearing Conference in EB Docket No. 11-71

Date: Thursday, January 16, 2014 11:08:22 AM PT

From: eitt líf. koma nú. griðastaðir <warren.havens@sbcglobal.net>

To: Austin Randazzo <Austin.Randazzo@fcc.gov>, Albert J. Catalano <ajc@catalanoplache.com>, Brian Carter <Brian.Carter@fcc.gov>, Charles A. Zdebski <czdebski@eckertseamans.com>, Dawn Livingston <livingston@khlaw.com>, Gary Schonman <Gary.Schonman@fcc.gov>, Harry F. Cole <cole@fhhlaw.com>, Howard M. Liberman <Howard.Liberman@db.com>, Jack Richards <richards@khlaw.com>, James M. Chen <jim@jimchen.org>, Jeffrey L. Sheldon <jsheldon@lb3law.com>, Jimmy Stobaugh <jstobaugh@telesaurus.com>, Joshua S. Turner <jturner@wileyrein.com>, 'nende@tlgdc.com' <nende@tlgdc.com>, Kurt E. DeSoto <kdesoto@wileyrein.com>, Laura H. Phillips <Laura.Phillips@db.com>, Matthew J. Plache <mjp@catalanoplache.com>, Pamela Kane <Pamela.Kane@fcc.gov>, Patricia J. Paoletta <tpaoletta@wiltshiregrannis.com>, Patrick R. McFadden <Patrick.McFadden@db.com>, Paul J. Feldman <feldman@fhhlaw.com>, Robert J. Jackson <rhj@commmlawgroup.com>, Robert J. Keller <rjk@telcomlaw.com>, Robert Kirk <rkirk@wbklaw.com>, Robert M. Gurss <gurss@fhhlaw.com>, Terry Cavanaugh <Terry.Cavanaugh@fcc.gov>, 'tanzenberger@cctb.com' <tanzenberger@cctb.com>, 'DRuhl@cctb.com' <DRuhl@cctb.com>

CC: Mary Gosse <Mary.Gosse@fcc.gov>, Richard Sippel <Richard.Sippel@fcc.gov>

I appreciate the Judge's consideration of my Letter and Motion, and your assistance in the response below.

Warren Havens

From: Austin Randazzo <Austin.Randazzo@fcc.gov>

To: Albert J. Catalano <ajc@catalanoplache.com>; Brian Carter <Brian.Carter@fcc.gov>; Charles A. Zdebski <czdebski@eckertseamans.com>; Dawn Livingston <livingston@khlaw.com>; Gary Schonman <Gary.Schonman@khlaw.com>; Harry F. Cole <cole@fhhlaw.com>; Howard M. Liberman <Howard.Liberman@db.com>; Jack Richards <richards@khlaw.com>; James M. Chen <jim@jimchen.org>; Jeffrey L. Sheldon <jsheldon@lb3law.com>; Jimmy Stobaugh <jstobaugh@telesaurus.com>; Joshua S. Turner <jturner@wileyrein.com>; "nende@tlgdc.com" <nende@tlgdc.com>; Kurt E. DeSoto <kdesoto@wileyrein.com>; Laura H. Phillips <Laura.Phillips@db.com>; Matthew J. Plache <mjp@catalanoplache.com>; Pamela Kane <Pamela.Kane@fcc.gov>; Patricia J. Paoletta <tpaoletta@wiltshiregrannis.com>; Patrick R. McFadden <Patrick.McFadden@db.com>; Paul J. Feldman <feldman@fhhlaw.com>; Robert J. Jackson <rhj@commmlawgroup.com>; Robert J. Keller <rjk@telcomlaw.com>; Robert Kirk <rkirk@wbklaw.com>; Robert M. Gurss <gurss@fhhlaw.com>; Terry Cavanaugh <Terry.Cavanaugh@fcc.gov>; Warren C. Havens <warren.havens@sbcglobal.net>; "tanzenberger@cctb.com" <tanzenberger@cctb.com>; "DRuhl@cctb.com" <DRuhl@cctb.com>

Cc: Mary Gosse <Mary.Gosse@fcc.gov>; Richard Sippel <Richard.Sippel@fcc.gov>

Sent: Thursday, January 16, 2014 6:22 AM

Subject: Pre-hearing Conference in EB Docket No. 11-71

Counsel and Mr. Havens,

The Presiding Judge is traveling today, but he has asked that I inform the participants that the pre-hearing conference will occur tomorrow as scheduled.

Thank you.

Austin Randazzo
Attorney Advisor
Office of Administrative Law Judges
Federal Communications Commission
(202) 418-2280

Subject: Re: Order 14M-1 Pre-hearing Conference, Docket No. 11-71

Date: Wednesday, January 15, 2014 2:35:20 PM PT

From: eitt líf. koma nú. griðastaðir <warren.havens@sbcglobal.net>

To: Richard.Sippel@fcc.gov <Richard.Sippel@fcc.gov>, Austin Randazzo <Austin.Randazzo@fcc.gov>, Albert J. Catalano <ajc@catalanoplache.com>, Brian Carter <Brian.Carter@fcc.gov>, Charles A. Zdebski <czdebski@eckertseamans.com>, Dawn Livingston <livingston@khlaw.com>, Gary Schonman <Gary.Schonman@fcc.gov>, Harry F. Cole <cole@fhhlaw.com>, Howard M. Liberman <Howard.Liberman@db.com>, Jack Richards <richards@khlaw.com>, James M. Chen <jim@jimchen.org>, Jeffrey L. Sheldon <jsheldon@lb3law.com>, Joshua S. Turner <jturner@wileyrein.com>, 'nende@tlgdc.com' <nende@tlgdc.com>, Kurt E. DeSoto <kdesoto@wileyrein.com>, Laura H. Phillips <Laura.Phillips@db.com>, Matthew J. Plache <mjp@catalanoplache.com>, Pamela Kane <Pamela.Kane@fcc.gov>, Patricia J. Paoletta <tpaoletta@wiltshiregrannis.com>, Patrick R. McFadden <Patrick.McFadden@db.com>, Paul J. Feldman <feldman@fhhlaw.com>, Robert J. Jackson <rhj@commlawgroup.com>, Robert J. Keller <rjk@telcomlaw.com>, Robert Kirk <rkk@wbklaw.com>, Robert M. Gurss <gurss@fhhlaw.com>, Terry Cavanaugh <Terry.Cavanaugh@fcc.gov>, 'tanzenberger@cctb.com' <tanzenberger@cctb.com>, 'DRuhl@cctb.com' <DRuhl@cctb.com>

Dear Judge Sipple,

The letter and motion I filed earlier today contained the following. (Emphasis added.)

It would be most appreciated if you rule on the below parts by early tomorrow, since the Limited Counsel (3 or 4 attorneys, from the midwest and south) have to depart for Washington DC at that time.

2. The information required under the Order^[1] from the Limited Counsel (defined below)^[2] that relate to me and the SkyTel entities *is fully subject to attorney-client communication and relation privileges* (together, "Privileges"),^[3] and I have made clear to each attorney called to testify at the hearing under the Order now set for this Friday (the Hearing)^[4] and their firms ("Limited Counsel") ^[5] that I fully assert the Privileges, with no waivers or exceptions, regarding myself and all companies I manage (often called "SkyTel entities").^[6]

I request that you vacate the Hearing since (i) if you accept these assertions of Privilege, there is no need for the Hearing; and (ii) if you reject these assertions, then I will respectfully appeal to the Commission under rule section 1.301(a)(2) in which case there is no need for the Hearing; and (iii) if you decide to consider these assertions for a period beyond the Hearing before deciding to accept or reject them, then there is no need for the Hearing as scheduled.

3. I do not see (i) how the Order was served,^[7] or (ii) that, even if the method of courtesy email (which was used) is effective legal service,^[8] how the advance-time provided (5 business days) was reasonable. ^[9] The rescheduling of the Hearing, and the non-Ordered request to bring documents for ordered testimony (apparently for Limited Counsel to obtain off of ECFS, review and be able to discuss) cause further burdens. These matter create undue hardship and clouds. For these reasons also, I object to the Order and Hearing.

At minimum, if the request above to vacate is not granted, I request that you continue the Hearing

for a week to ten days, and make reasonable attempts to accommodate the Limited Counsels' and my schedules and situations and mitigate hardship. I request this myself since the demands of the Order on them adversely affect me and the SkyTel entities I manage.

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- [1] The Order's current language, and any derivatives.
 - [2] The Order requires me to attend, but does not call for me to testify. If at some point I am ordered to testify on matters related to the Order, I intend to consider and engage appropriate counsel, including under USC § 555 (b) and relevant FCC law. I fully deny any actual or apparent charges in the Order, and find them too vague to understand.
 - [3] As to communications, work product, confidentiality, and other matters.
 - [4] Currently set for January 17, 2014.
 - [5] With regard to Limited Counsel Neil Ende, his letter to you noted in the Order was filed without consultation with me, was not served on me (for reasons of which I am not aware) and did not have a certificate of service. I object to his letter commenting on what Mr. Chen's services to me may be, and other disclosures that are not public that I did not authorize. The letter is improper and I request that it be stricken or disregarded.
 - [6] The Privileges apply regardless of any such communications in which I express these to counsel, for a particular situation that may arise, such as caused by the Order.
 - [7] In addition, the Limited Counsel were not parties or representative counsel and had no reason to check ECFS to see if any such order directed to them would be released. I am not their (or anyone's) agent to receive service. Release on ECFS of an order compelling action would not appear to be effective service.
 - [8] Especially for non parties, which include the Limited Counsel and the SkyTel entities, they had no reason to look at the 11-71 docket on ECFS to see if there was any such Order posted, and it is not clear that you have to post all orders and releases on ECFS (most transcripts are not, and some contain orders and instructions, etc.)
 - [9] Timely action is a "law of the case" (e.g., see my pending request under §1.301(a) and (b)). This "law" should be uniformly and equally applied, whether in meeting a deadline or imposing one.

From: eitt líf. koma nú. griðastaðir <warren.havens@sbcglobal.net>
To: "Richard.Sippel@fcc.gov" <Richard.Sippel@fcc.gov>; Austin Randazzo <Austin.Randazzo@fcc.gov>; Albert J. Catalano <ajc@catalanoplache.com>; Brian Carter <Brian.Carter@fcc.gov>; Charles A. Zdebski <czdebski@eckertseamans.com>; Dawn Livingston <livingston@khlaw.com>; Gary Schonman <Gary.Schonman@fcc.gov>; Harry F. Cole <cole@fhhlaw.com>; Howard M. Liberman <Howard.Liberman@db.com>; Jack Richards <richards@khlaw.com>; James M. Chen <jim@jimchen.org>; Jeffrey L. Sheldon <jsheldon@lb3law.com>; Joshua S. Turner <jturner@wileyrein.com>; "nende@tlgdc.com" <nende@tlgdc.com>; Kurt E. DeSoto <kdesoto@wileyrein.com>; Laura H. Phillips <Laura.Phillips@db.com>; Matthew J. Plache <mjp@catalanoplache.com>; Pamela Kane <Pamela.Kane@fcc.gov>; Patricia J. Paoletta <tpaoletta@wiltshiregrannis.com>; Patrick R. McFadden <Patrick.McFadden@db.com>; Paul J. Feldman <feldman@fhhlaw.com>; Robert J. Jackson <rhj@commmlawgroup.com>; Robert J. Keller <rjk@telcomlaw.com>; Robert Kirk <rkirk@wbklaw.com>; Robert M. Gurss <gurss@fhhlaw.com>; Terry Cavanaugh <Terry.Cavanaugh@fcc.gov>; "tanzenberger@cctb.com" <tanzenberger@cctb.com>; "DRuhl@cctb.com" <DRuhl@cctb.com>
Cc: Jimmy Stobaugh <jstobaugh@telesaurus.com>; Warren Havens <warren.havens@sbcglobal.net>
Sent: Wednesday, January 15, 2014 10:05 AM
Subject: Re: Order 14M-1 Pre-hearing Conference, Docket No. 11-71

Attached is a courtesy copy of a motion filed today regarding Order 14M-1 and the Pre-hearing conference, along with a copy of the electronic filing receipt. The motion has materially the same content as the letter sent to you with the immediately below email.

(I include here persons that are not parties or representative counsel of parties, because they were included in the courtesy email circulation list used by the ALJ's office regarding 14M-1, to which I object, as noted in the letter. This email uses the ALJ offices' circulation list, adding in the ALJ Sippel.)

Warren Havens

From: eitt líf. koma nú. griðastaðir <warren.havens@sbcglobal.net>
To: "Richard.Sippel@fcc.gov" <Richard.Sippel@fcc.gov>; Austin Randazzo <Austin.Randazzo@fcc.gov>; Albert J. Catalano <ajc@catalanoplache.com>; Brian Carter <Brian.Carter@fcc.gov>; Charles A. Zdebski <czdebski@eckertseamans.com>; Dawn

Livingston <livingston@khlaw.com>; Gary Schonman <Gary.Schonman@fcc.gov>; Harry F. Cole <cole@fhhlaw.com>; Howard M. Liberman <Howard.Liberman@db.com>; Jack Richards <richards@khlaw.com>; James M. Chen <jim@jimchen.org>; Jeffrey L. Sheldon <jsheldon@lb3law.com>; Jimmy Stobaugh <jstobaugh@telesaurus.com>; Joshua S. Turner <jturner@wileyrein.com>; "nende@tlgdc.com" <nende@tlgdc.com>; Kurt E. DeSoto <kdesoto@wileyrein.com>; Laura H. Phillips <Laura.Phillips@db.com>; Matthew J. Plache <mjp@catalanoplache.com>; Pamela Kane <Pamela.Kane@fcc.gov>; Patricia J. Paoletta <tpaoletta@wiltshiregrannis.com>; Patrick R. McFadden <Patrick.McFadden@db.com>; Paul J. Feldman <feldman@fhhlaw.com>; Robert J. Jackson <rhj@commmlawgroup.com>; Robert J. Keller <rjk@telcomlaw.com>; Robert Kirk <rkirk@wbklaw.com>; Robert M. Gurss <gurss@fhhlaw.com>; Terry Cavanaugh <Terry.Cavanaugh@fcc.gov>; "tanzenberger@cctb.com" <tanzenberger@cctb.com>; "DRuhl@cctb.com" <DRuhl@cctb.com>

Cc: Jimmy Stobaugh <jstobaugh@telesaurus.com>; Warren Havens <warren.havens@sbcglobal.net>

Sent: Wednesday, January 15, 2014 9:14 AM

Subject: Order 14M-1 Pre-hearing Conference, Docket No. 11-71

Attached is a courtesy copy of a letter to ALJ Richard Sippel filed today regarding Order 14M-1 and the Pre-hearing conference, along with a copy of the electronic filing receipt.

(I include here persons that are not parties or representative counsel of parties, because they were included in the courtesy email circulation list used by the ALJ's office regarding 14M-1, to which I object, as noted in the letter. This email uses the ALJ offices' circulation list, adding in the ALJ Sippel.)

Warren Havens

CERTIFICATE OF SERVICE

The undersigned certifies that he has on this 16th day of January, 2014 caused to be served by first class United States mail copies of the foregoing filing to:

The Honorable Richard L. Sippel
Chief Administrative Law Judge
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

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/ s / [Electronically signed. Signature on file.]

Warren Havens